

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Scott Hutchison Enterprises, Inc., et al.	:	CASE NO: C-1-01-776
	:	
Plaintiffs	:	Judge Weber
	:	
vs.	:	
	:	
Rhodes, Inc., et. al.	:	
	:	
Defendants	:	

**SUPPLEMENT TO JOINT STATUS REPORT REGARDING SETTLEMENT
NEGOTIATIONS, MEDIATION, AND PENDING MOTION**

Come now the parties to the within litigation and hereby submit their
SUPPLEMENT TO THE JOINT STATUS REPORT, in compliance with the Court's
Order entered 9-13-05, and the JOINT STATUS REPORT of 10-10-05.

STATUS REPORT:

- (1) This Supplement to the Joint Status Report filed October 10, 2005 is made in compliance with the representation of the parties made therein, that they would supplement the 10-10-05 Status Report on or before October 24, 2005.
- (2) Settlement: No settlement agreement has been reached. The proposal that was submitted for consideration September 28, 2005 and was still under consideration 10-10-05 has not been agreed to, and it now appears that there is no realistic prospect that the case will be settled.

- (3) Mediation: Since settlement efforts appear now to have been exhausted, the parties do not believe mediation to be a viable option at this time.
- (4) Motion to Amend Order to Add Rule 54(b) Language: Contemporaneous with the filing of the Status Report of 10-10-05, Plaintiff's filed a Motion seeking modification of the Court's August 18, 2005 Order (granting summary judgment to Boggs) to add Rule 54(b) language that there is "no just reason for delay", to enable that Order to become a final appealable order from which an appeal can be taken now, rather than after the remaining issues as to the defendants Rhodes, Zimmer and Geisler have been adjudicated. A Memorandum in Support of that Motion was also filed, setting forth the reasons for the request. That Motion also requests a stay of proceedings before this Court while an appeal is pending. There has been no opposition filed as to that motion, and none is anticipated. It is therefore requested that the Court consider and rule on that motion before additional discovery and trial preparation is undertaken, so the attention and efforts of the parties can be directed toward an appeal of that Order, rather than trial preparation.
- (5) There are no other matters to be covered in this status report at this time.

Respectively submitted,



William P. Schroeder (#0027123)
Attorney for Plaintiff, Scott Hutchison
Schroeder, Maundrell, Barbieri & Powers
11935 Mason Road, Suite 110
Cincinnati, Ohio 45249
(513)-583-4211 bschroeder@smbplaw.com



Thomas R. Schuck *via* *Telephone permission*
Attorney for H.T. Boggs *10-24-05*
Taft Stettinius & Hollister
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202
(513)-381-2838

W. Craig Robertson III by Wm P. Schroeder
W. Craig Robertson, III by Telephone Permission 10-24-05
Attorney for Defendants, Geissler & Zimmer
Wyatt Tarrant & Combs, LLP
250 West Main Street, Suite 1600
Lexington, KY 40507-1746
859-233-2012
859-259-0649 fax

E. David Marshall by Wm P. Schroeder
E. David Marshall by Telephone Permission 10-24-05
Attorney for Larry Rhodes, Inc.
259 W. Short Street
Lexington, KY 40507

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: E. David Marshall at edavidm@iglou.com; Gayle Benner McGrath at gmcgrath@wyattfirm.com; and Thomas Robert Schuck at schuck@taftlaw.com and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Kevin J. Waldo, 413 Center Street, Ironton, OH 45638-1505; E. Christine Lewis, Wyatt Tarrant & Combs, LLP, 250 West Main Street, Suite 1600, Lexington, KY 40507-1746; W. Craig Robertson, Wyatt Tarrant & Combs, LLP, 250 West Main Street, Suite 1600, Lexington, KY 40507-1746; and M. Bradford Sanders, Sanders & Associates, 9122 Montgomery Road, Suite 201, Montgomery, OH 45242.

/s/ William P. Schroeder
William P. Schroeder